

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MICHAEL JONES,

Plaintiff,

v.

ORDER

JOHN DOE RADIOLOGIST and SYMPHONY
DIAGNOSTIC SERVICES NO. 1, LLC,

17-cv-907-jdp

Defendants.

Pro se plaintiff Michael Jones filed this suit against prison medical officials at Columbia Correctional Institution, alleging that prison staff failed to treat his swollen and painful knee. He also sued Symphony Diagnostic Services and its John Doe employee for medical malpractice, alleging that these defendants misread an x-ray. I granted summary judgment to the state defendants in a previous order. Dkt. 74. At that time, Jones's claims against Symphony Diagnostic and its employee were stayed pending the completion of bankruptcy proceedings. The case has since been reopened, and Symphony Diagnostic has filed a motion requesting that the court decline to exercise subject matter jurisdiction over Jones's remaining claims under 28 U.S.C. § 1367(c). Dkt. 89. Jones does not oppose the motion, stating that he would prefer to litigate his remaining claims in state court. Dkts. 95–97.

Under § 1367(c)(3), a federal court may decline to exercise supplemental jurisdiction over state law claims after it has dismissed all claims over which it had original jurisdiction. In this instance, I dismissed all of Jones's claims that raised a federal question when I granted summary judgment to the state defendants. Neither Jones nor Symphony Diagnostic Services addresses whether this court has original subject matter jurisdiction over Jones's state law medical malpractice claims against Symphony Diagnostic based on diversity of citizenship

under 28 U.S.C. § 1332(a), but there is no indication in the record that diversity jurisdiction is present. Therefore, I will grant Symphony Diagnostic's motion. Jones should act promptly to refile his claims against Symphony Diagnostic and the John Doe employee in state court before the statute of limitations expires. Because I am dismissing this case, I will deny Jones's outstanding motion for assistance in recruiting counsel as moot. Jones should make his request for counsel in state court.

ORDER

IT IS ORDERED that:

1. Defendant Symphony Diagnostic Services No. 1 LLC's motion to relinquish jurisdiction to state court, Dkt. 89, is GRANTED. This case is DISMISSED without prejudice to plaintiff Michael Jones refiling his claims in state court.
2. Plaintiff's motion for assistance in recruiting counsel, Dkt. 94, is DENIED.

Entered January 7, 2020.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge